

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 14.07.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Writ Appeal Nos.4022 to 4024 of 2004
and 2011 & 2012 of 2005
and W.A.M.P. Nos.3694 and 3695 of 2005

The Managing Director,
Tamil Nadu Housing Board,
493, Anna Salai, Nandanam,
Chennai-35.

... Appellant in all WAs.

vs.

1. Chinnasamy
2. Govindammal
3. Vediammal

... R1 to R3 in WA.4022/04.

1. Madhu
2. Idaman
3. Kaveri

... R1 to R3 in WA.4023/04

1. P.Subramani
2. Sithan
3. Mani

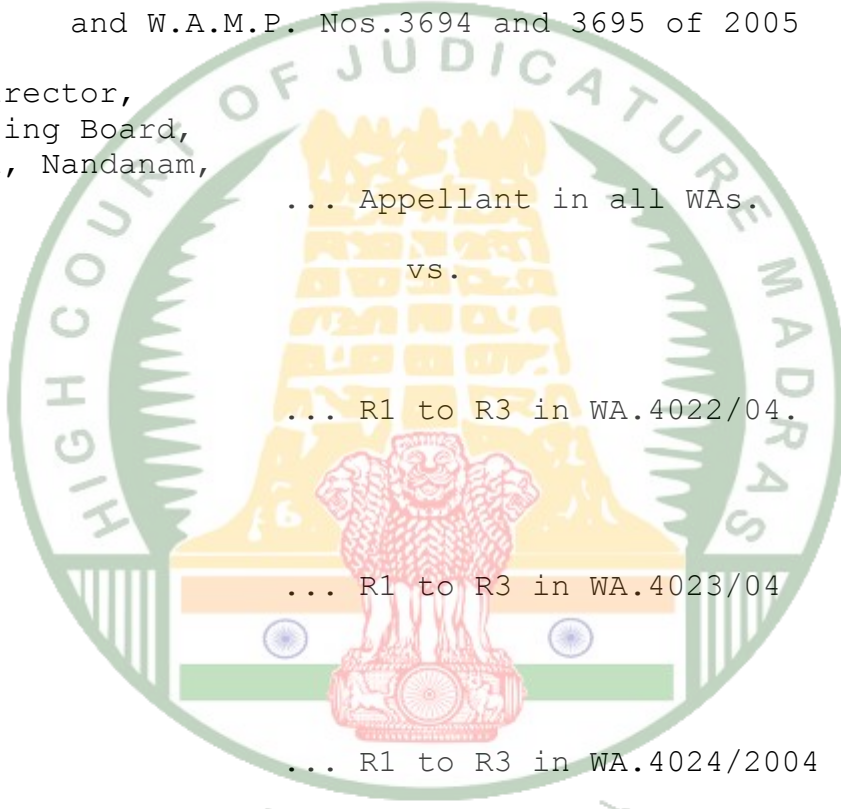
... R1 to R3 in WA.4024/2004

1. M.Rangasamy
2. M.Jayaraman
3. M.Bakthavachalam

... R1 to R3 in WA.2011/2004

1. Ramakrishnan
2. Periakannan @ Perumal
3. Muthu
4. Muniammal
5. Miruthangaru Perumal
6. Kaveriammal

... R-1 to R-6 in WA.2012/02



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The State of Tamil Nadu
rep. by Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai-600 009.

The Special Tahsildar (LA)
Housing Development Scheme,
Hosur, Dharmapuri.

... R-4 & R-5 in WAs.4022 to
4024/05 & 2011/05; R-7 and R-8
in WA No.2012 of 2005.

Appeals under Clause 15 of the Letters Patent against the Orders of the learned single Judge dated 30.01.2001 in W.A. Nos.21596/2000, 21597/2000, 21595/2000, 21594/2000 and 21593/2000.

For Appellants : Mr.D.Veerasekaran

For Official Respondents : Mr.C.Thirumaran,
Government Advocate.

For other respondents : Mr.M.A.Abdul Wahab

COMMON JUDGMENT

P.SATHASIVAM, J.

Aggrieved by the separate but identical orders, dated 30.01.2001, of the learned single Judge, made in W.P. Nos. Nos.21596/2000, 21597/2000, 21595/2000, 21594/2000 and 21593/2000, directing the Special Tahsildar (LA), Housing Development Scheme, Hosur, Dharmapuri, to make proper reference of the claim of the respective petitioners/land owners to the competent civil court under Section 18 of the Land Acquisition Act, the Managing Director, Tamil Nadu Housing Board, has filed the above Appeals.

2. Heard Mr.D.Veerasekaran, learned counsel for the appellant; Mr.C.Thiruman, learned Government Advocate for the official respondents; and Mr.M.A.Abdul Wahab for other respondents/land owners.

3. It is seen from the materials placed that the writ petitioners/land owners made a representation dated 16.08.2000 for enhancement of the compensation. The Special Tahsildar (LA), Housing Schemes, Hosur, by letter dated 18.10.2000, after stating that their representation has been made after a period of 12 years, rejected their claim. The said order was challenged by way of five Writ Petitions by the land owners. The learned Judge, by order dated 30.01.2001, after finding that the Land Acquisition Officer himself had assured the land owners for reference of the matter under Section 18 of the Land Acquisition Act,

directed the said Officer to make appropriate reference under Section 18 of the Act to the Civil Court.

4. Mr.D.Veerasekaran, learned counsel for the appellant, contended that the learned Judge has erred in issuing a direction to the Land Acquisition Officer to refer the Award under Section 18 of the Land Acquisition Act, 1894, when there was no written application by the land owners before the Land Acquisition Officer. In other words, according to him, written application is mandatory for referring the award under Section 18 of the Act and, in the absence of the same, the learned Judge ought to have dismissed the Writ Petitions.

5. As per sub-Section(1) of Section 18 of the Act, any person who has not accepted the award, by written application to the Collector, may require that the matter be referred by him for the determination of the Court in respect of his objection to the measurement of the land, amount of compensation, persons to whom it is payable or the apportionment of the compensation among the persons interested.

Sub-section(2) provides that if the person making it was present or represented before the Collector at the time when he made his award, shall file Application within six weeks from the date of the Collector's award or in other cases, within six weeks of the receipt of the notice from the Collector under Section 12 sub-section(2) or within six months from the date of the Collector's award, whichever period shall first expire.

By pointing out the above provisions, it is vehemently contended that, in the absence of written application to the Collector/Land Acquisition Officer, the direction of the learned single Judge cannot be sustained.

6. Before the learned Judge as well as before us, it is the stand of the respondents/land owners that in the award itself, the Land Acquisition Officer has specifically mentioned that the claim of the respective land owners would be forwarded to the Civil Court under Section 18 of the Act. The contesting respondents have also filed an additional typed set, enclosing relevant portions of Award Nos.7/1984 and 9/1989 passed by the Land Acquisition Officer, Hosur, dated 25.05.1988 and 02.06.1988 respectively. A perusal of the same makes it clear that after passing of the Award, the parties, while receiving the amount determined, objected to the same and prayed for reference to the Civil Court under Section 18 for higher compensation. The Awards also make it clear that the Land Acquisition Officer assured them that he would refer the same under Section 18 of the Land Acquisition Act. As rightly pointed out, the Award itself shows that though the land owners received the amount, they raised an objection regarding the quantum determined and received it, subject to reference to Civil Court for higher compensation. In fact, the Land Acquisition Officer himself assured the land owners that the entire records will be forwarded to the Court concerned under Section 18 of the Act. In such circumstances, we are unable to accept the contention raised by the learned counsel for the appellant.

7. In this context, it is useful to refer to a recent decision rendered by the First Bench of this Court reported in 2006-1-L.W.-347 (Steel Authority of India Limited, Salem Steel Plant, Salem vs. The Salem Urukklai Thittathal Nilam Ilanthor Sangam & others). While considering similar objection raised by a public body, viz., Steel Authority of India Limited, after referring to the decision of the Supreme Court in Ajit Singh v. State of Punjab ((1994) 4 SCC 67), the Bench held that the protest against the award of the Collector is implied notwithstanding the acceptance of compensation. The Division Bench also approved a similar view expressed in W.P. No.2450 of 1983, dated 18.12.1990 (Pachaianna Gounder and another vs. Special Tahsildar, Land Acquisition, Salem Steel Plant and another). The following conclusion of the Division Bench is very relevant and the same is extracted here-under,

" 21. Having regard to this settled legal position laid down by the Apex Court as well as various High Courts it is clear that mere protest or expression of dissatisfaction to the award of compensation without there being anything in writing may be sufficient and that the authority concerned is under an obligation to refer the matter to the court in accordance with Section 18(2) of the Act. In view of this legal position various categories as indicated hereinabove, expressing their protest and filing their applications for reference and some having not even received notices under Section 12(2) of the Act, cannot be denied the right to refer their cases to the Court under Section 18(2) of the Act, and therefore, we do not find any ground to interfere with the judgment of the learned single Judge."

Thus, it is clear that even without a formal application, if the land owner expresses his protest or dissatisfaction to the award of compensation, the authority is under an obligation to refer the matter to the court under Section 18 (2) of the Act.

8. In the case on hand, though no separate application was filed by the land owners, it is clear from the awards that they protested against the quantum determined and, on their request, the land Acquisition Officer himself had assured and made it clear that he would forward all the records to the Civil Court under Section 18 of the Land Acquisition Act. When there is an assertion by the Land Acquisition Officer, it cannot be contended that without a formal application, reference cannot be made to the Civil Court.

Though Mr.D.Veerasekaran, relied on an unreported decision of the First Bench dated 17.3.2006 in W.A. Nos.324 & 325 of 2006, considering the factual position as narrated above, we are of the view that the said decision is not applicable to the cases on hand. For the same reason, we

also find that the decisions of the Supreme Court relied on by the counsel for the appellant, viz., AIR 1996 SC 1513 (Ambey Devi vs. State of Bihar) and AIR 1997 SC 2642 (Land Acquisition Officer v. Shivabai), are not helpful to the cases on hand.

9. In these circumstances, we do not find any error or infirmity or valid ground for interference. Appeals fail and the same are dismissed. No costs. In view of the dismissal of the Writ Appeals, the Special Tahsildar (LA), Housing Development Schemes, Hosur, is directed to comply with the order of the learned Judge within a period of four weeks from the date of receipt of copy of this Judgment. Connected Miscellaneous Petitions stand closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

JI.

To
1. The Secretary to Government, Housing and Urban Development Department, Fort St. George, Chennai-600 009.
2. The Special Tahsildar (LA), Housing Development Scheme, Hosur, Dharmapuri.
3. The Managing Director, Tamil Nadu Housing Board, 493, Anna Salai, Nandanam, Chennai 35.

+ 1 CC To Mr. M.A.Abdul Wahab, Advocate SR NO.30670, [WA.4022 TO 4024/04]

+ 1 CC To Mr. M.A.Abdul Wahab, Advocate SR NO.30672 [WA.2011 & 2012/05]

+ 1 CC To Mr. D.Veerasekaran, Advocate SR NO.30619

W.A. Nos.4022 to 4024 of
2004 and 2011 & 2012 of
2005.

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